

By: Bernal

H.B. No. 3921

A BILL TO BE ENTITLED

AN ACT

relating to certain contracting requirements for the provision of broadband Internet access service to governmental entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2252, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. CONTRACTS WITH CERTAIN INTERNET SERVICE PROVIDERS

Sec. 2252.221. DEFINITIONS. (a) In this subchapter:

(1) "Broadband Internet access service" means service, other than dial-up Internet access service, that is:

(A) a mass-market retail Internet access service provided by wire or radio that enables a person to transmit and receive data between the person's customer premises equipment, including mobile devices, and substantially all Internet endpoints; or

(B) a service that is incidental to or that enables the operation of the service described in Paragraph (A).

(2) "Broadband Internet access service provider" means a person that provides broadband Internet access service.

(3) "Governmental entity" has the meaning assigned by Section 2252.001.

(4) "Paid prioritization" means a broadband Internet access service provider's management of its network to directly or indirectly favor certain traffic over other traffic, including

1 through traffic shaping, prioritization, resource reservation, or  
2 other forms of preferential traffic management, either in exchange  
3 for consideration from a third party or to benefit an affiliated  
4 entity.

5 (b) For the purposes of this subchapter, broadband Internet  
6 access service includes the functional equivalent of a service  
7 described by Subsection (a)(1)(A) as determined by the Department  
8 of Information Resources.

9 Sec. 2252.222. MANAGEMENT. For purposes of Section  
10 2252.223, an activity described by Section 2252.223(1) or (2) does  
11 not include reasonable network management. A practice is  
12 considered to be reasonable network management if the practice:

13 (1) has a technical network management justification;  
14 (2) does not include other business practices; and  
15 (3) is tailored to achieve a legitimate network  
16 management purpose, taking into account the particular network  
17 architecture and technology of the broadband Internet access  
18 service.

19 Sec. 2252.223. REQUIREMENTS FOR CONTRACTS WITH PROVIDERS.  
20 A governmental entity may not contract with a broadband Internet  
21 access service provider unless the contract contains a written  
22 verification from the provider that the provider does not:

23 (1) block lawful content, applications, or services or  
24 the use of non-harmful devices;

25 (2) impair or degrade lawful Internet traffic for the  
26 purpose of discriminating against or favoring certain Internet  
27 content, applications, or services or the use of non-harmful

1 devices; or

2 (3) engage in paid prioritization.

3 Sec. 2252.224. ENFORCEMENT. The attorney general may bring  
4 any action necessary to enforce this subchapter.

5 SECTION 2. The changes in law made by this Act apply only to  
6 a contract entered into on or after the effective date of this Act.  
7 A contract entered into before that date is governed by the law in  
8 effect immediately before the effective date of this Act, and the  
9 former law is continued in effect for that purpose.

10 SECTION 3. This Act takes effect September 1, 2019.